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SENATE

{ REPORT
No. 1971 }

ESTATE OF C. G. ALLEN

JUNE 27, 1952.—Ordered to be printed

Mr. McCARRAN, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H. R. 1098]

The Committee on the Judiciary, to which was referred the bill (H. R. 1098) for the relief of the estate of C. G. Allen, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

AMENDMENT

On page 1, line 7, strike the figure "\$937.75" and insert in lieu thereof the figure "\$550".

PURPOSE

The purpose of the proposed legislation, as amended, is to pay the sum of \$550 to the legal representative of the estate of C. G. Allen, deceased, late of Jackson, Ala., in full settlement of all claims against the United States for damage caused to the Allen property when the Corps of Engineers, in constructing a cut-off canal at Sunflower Bend, Tombigbee River, Ala., destroyed the means of land ingress and egress to and from the Allen property.

STATEMENT

In the prosecution of the Sunflower Bend Canal project, the Government acquired through condemnation proceedings a portion of the lands owned by Mr. Allen. Another portion of his property, comprising approximately 95 acres, remained in his ownership but was cut off in such a fashion as to form part of an island. Just compensation was paid for only the property acquired. Negotiations to the end of compensation for the cut-off of ingress and egress to the 95

acres were carried on but did not culminate in a settlement. A claim for damages was transmitted to the General Accounting Office on April 4, 1950. The Department of the Army recommended payment in the sum of \$550, which sum represented the diminution in value of Mr. Allen's property incident to the destruction of land access. Recommendation was made also that interest be paid on that sum from the date of completion of the canal, viz: March 29, 1938, to the date of submission of the claim. The General Accounting Office disallowed the claim since it was barred by the statute of limitations.

Although the Department of the Army originally recommended payment in the sum of \$937.75, which included interest on the amount originally owing, it subsequently held that interest should not be allowed.

The Department of the Army notes that no claim for loss of access to the cut-off land was made during the condemnation proceedings where it would have been a proper item for compensation. Information is not available as to the reasons why the administratrix did not file a claim with the General Accounting Office within the statutory 10-year period. However, the Department feels that in view of such circumstances as are known there is an equitable basis for waiving the statutory period. The administratrix negotiated with Government representatives concerning the claim and since in most cases negotiations of this kind usually terminate in settlements, it is quite possible that the statutory period was allowed to run through no fault on the part of the administratrix.

The Department of the Army in its report on the instant bill, states in part as follows:

In view of the foregoing, it is believed that the estate of C. G. Allen is equitably entitled to reimbursement for the damages which were suffered as a result of governmental construction activities. However, it is felt that such reimbursement should be limited to the amount of damages actually sustained, or \$550. There is no justification for the payment of the 6 percent interest being sought by the claimant, interest which, when added to the foregoing \$550, would equal the sum of \$937.75 set out in H. R. 1098. This interest accrued as a result of the claimant estate's laches, and it is believed that setting aside the bar of the statute of limitations constitutes extremely fair treatment of the claimant in the light of all the circumstances.

Accordingly, the Department of the Army recommends that H. R. 1098 be amended to provide for an award to the estate of C. G. Allen in the amount of \$550 and that, as so amended, it be enacted into law.

The committee is in agreement with the Department of the Army that there is no justification for the payment of interest in this claim, and therefore recommends that claimant be reimbursed in the amount of \$550 as set out in the bill as amended.

Attached hereto and made a part of this report is the report of the Department of the Army submitted in connection with this bill.

DEPARTMENT OF THE ARMY,
Washington, D. C., July 13, 1951.

Hon. EMANUEL CELLER,
Chairman, Committee on the Judiciary,
House of Representatives.

DEAR MR. CELLER: Reference is made to your request to the Department of the Army for an expression of views with respect to H. R. 1098, Eighty-second Congress, a bill for the relief of the estate of C. G. Allen.

The Department of the Army has considered the above-mentioned bill.

The purpose of the measure is to direct the Secretary of the Treasury to pay to the legal representative of the late C. G. Allen, Jackson, Ala., the sum of \$937.75. This sum is to constitute full settlement for all claims against the United States for damage occasioned the Allen property when the Corps of Engineers, in constructing a cut-off canal at Sunflower Bend, Tombigbee River, Ala., destroyed the means of land ingress and egress to and from the Allen property.

In the prosecution of the above-named project, the Government acquired through condemnation proceedings a portion of the lands owned by Mr. Allen. Another portion of this property, comprising approximately 95 acres, remained in his ownership but was cut off in such a fashion as to form part of an island. Just compensation was paid for only the property acquired. Negotiations to the end of compensation for the cut-off of ingress and egress to the 95 acres were carried on but did not culminate in a settlement. A claim for damages was transmitted to the General Accounting Office on April 4, 1950. This Department recommended payment in the sum of \$550, which sum represented the diminution in value to claimant's property because of the destruction of land access. Recommendation was made also that interest be paid on that sum from the date of completion of the canal, viz: March 29, 1938, to the date of submission of the claim. The General Accounting Office disallowed the claim since it was barred by the statutes of limitations.

Although this Department, as noted above, recommended payment in the sum of \$937.75 which included interest on the amount originally owing, on further consideration it is believed that interest should not be allowed. It is noted that apparently no claim for loss of access to the cut-off land was made during the condemnation proceedings where it would have been a proper item for compensation. Information is not available as to the reasons why the administratrix did not file a claim with the General Accounting Office within the statutory 10-year period. It is felt, however, that in view of such circumstances as are known there is an equitable basis for waiving the statutory period. The administratrix negotiated with Government representatives concerning the claim and since in most cases negotiations of this kind usually terminate in settlements it is quite possible that the statutory period was allowed to run through no fault on the part of the administratrix.

In view of the foregoing, it is believed that the estate of C. G. Allen is equitably entitled to reimbursement for the damages which were suffered as a result of governmental construction activities. However, it is felt that such reimbursement should be limited to the amount of damages actually sustained, or \$550. There is no justification for the payment of the 6 percent interest being sought by the claimant, interest which, when added to the foregoing \$550, would equal the sum of \$937.75 set out in H. R. 1098. This interest accrued as a result of the claimant estates' laches, and it is believed that setting aside the bar of the statute of limitations constitutes extremely fair treatment of the claimant in the light of all the circumstances.

Accordingly, the Department of the Army recommends that H. R. 1098 be amended to provide for an award to the estate of C. G. Allen in the amount of \$550 and that, as so amended, it be enacted into law.

The fiscal effect of this measure amended as recommended would involve the expenditure of Federal funds in the amount of \$550.

The Bureau of the Budget advises that there is no objection to the submission of this report.

Sincerely yours,

FRANK PACE, Jr.,
Secretary of the Army.

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The purpose of this report is to present a summary of the results of the investigation of the problem of the control of the spread of the disease known as "the disease of the sheep" in the State of New York. The investigation was conducted by the author, C. C. Allen, and the results are presented in this report.

The disease of the sheep is a very serious and widespread disease which is caused by a virus. It is characterized by a high mortality rate and is very difficult to control. The disease is spread by contact with infected animals or by contact with their secretions. It is also spread by contact with the environment, particularly in the case of young animals. The disease is most common in the State of New York, where it is known as "the disease of the sheep". It is also known in other parts of the world, particularly in the United Kingdom and in Australia.

The purpose of this investigation was to determine the cause of the disease and to find a method of control. The investigation was conducted by the author, C. C. Allen, and the results are presented in this report. The investigation was conducted in the State of New York, where the disease is most common. The results of the investigation show that the disease is caused by a virus and that it is spread by contact with infected animals or by contact with their secretions. It is also spread by contact with the environment, particularly in the case of young animals.

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